ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE COMMON COUNCIL OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN.

April 4, 2013

The regular meeting of the Common Council was called to order by Council President Singer. MEMBERS PRESENT: Abbott, Winship, Binnie, Singer, Crone, Kidd, Olsen. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: McDonell.

It was moved by Olsen and seconded by Winship to approve the Council Minutes of March 19, 2013 and to acknowledge receipt and filing of the following: Irvin L. Young Memorial Library Minutes of 2/18/2013; Parks and Recreation Board Minutes of 2/4/2013; Police Department Consolidated Monthly Report for February, 2013; and added to the consent agenda was R-1 Authorizing submission of grant application to Wisconsin DNR for Non-point source water pollution grant; C-2 Approval of agreement with Town of Koshkonong regarding wastewater treatment plant application to Township property; and C-3 Approval of purchasing agreement with Lawson Cooperative Purchasing Agreement. AYES: Abbott, Winship, Binnie, Singer, Crone, Kidd, Olsen. NOES: None. ABSENT: None.

<u>APPROVAL OF PAYMENT OF INVOICES</u>. It was moved by Olsen and seconded by Winship to approve payment of city invoices in the total sum of \$78,299.89. AYES: Abbott, Winship, Binnie, Singer, Crone, Kidd, Olsen. NOES: None. ABSENT: None.

STAFF REPORTS.

City Manager Clapper read the Proclamation Celebrating "The Week of the Young Child" and presented Councilmember Andrew Crone with a Certificate of Appreciation for his Councilmember-at-Large service with the Council. Clapper presented an update on the Strategic Planning Process. A council/staff retreat will be coming in the next several months. During this retreat, 2013-2014 projects and goals for 2014 will be discussed.

CITIZEN COMMENTS.

Cable T.V. Coordinator, Alan Luckett announced the Art Walk on April 5, 2013 from 4 – 9 p.m.

Councilmember Winship mentioned the public television program "Around the Corner" with John McGivern is being aired currently during this council meeting (7 p.m.) but will also be re-broadcast on Wednesday and Monday and again on Saturday.

<u>AUTHORIZING SUBMISSION OF GRANT APPLICATION TO WISCONSIN</u> DNR FOR NONPOINT SOURCE WATER POLLUTION GRANT.

RESOLUTION TO OBTAIN NONPOINT SOURCE WATER POLLUTION GRANT FROM THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES

A RESOLUTION authorizing the submittal of a state grant application by the City of Whitewater and the subsequent appropriation of City funds for Urban Nonpoint Source projects for planning, design, and construction of streambank stabilization measures along Whitewater Creek and planning, design, and construction of stormwater detention facilities.

WHEREAS, the City of Whitewater is qualified, willing and able to carry out all activities described in the state grant application; and

WHEREAS, in this action the Whitewater City Council has declared its intent to conduct the Stormwater Management projects described in the application; and,

WHEREAS, the City of Whitewater will maintain records documenting all expenditures made during the Urban Nonpoint Source Grant project; and,

WHEREAS, the City of Whitewater will submit a final report to the Department which describes all Urban Nonpoint Source project activities, achievements and data collected, and documentation of the project costs.

THEREFORE BE IT RESOLVED, that the Whitewater Common Council requests the funds and assistance available from the Wisconsin Department of Natural Resources under the Urban Nonpoint Source Grant Program and will comply with state rules for the program, and,

BE IT FURTHER RESOLVED that the City of Whitewater will meet the obligations of the planning, design, and construction projects including timely publication of the results and meet the financial obligations under this grant including the prompt payment of our commitment to planning, design, and construction project costs.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Binnie, Singer, Crone, Kidd. NOES: None. ABSENT: None. ADOPTED: April 4, 2013

Cameron L. Clapper, City Manager Michele R. Smith, City Clerk

RESOLUTION CLARIFYING THE STATUS OF WHITEWATER MUNICIPAL CODE SECTION 19.51.050 b CONCERNING ALLOWED LOCATION OF OFF-SITE PARKING. City Attorney Wally McDonell stated the Municipal Code Book no longer has Section 19.51.050(b) included. McDonell stated that the publisher made an error and that adoption of this resolution would authorize correction of the municipal code.

RESOLUTION CLARIFYING THE STATUS OF WHITEWATER
MUNICIPAL CODE SECTION 19.51.050 B. CONCERNING ALLOWED

LOCATION OF OFF-SITE PARKING

WHEREAS, the City of Whitewater Municipal Code Section 19.51.050 B. was enacted in 1982, and

WHEREAS, in the year 2000 certain amendments were passed concerning Section 19.51.050, and

WHEREAS, said amendments did not repeal or change Section 19.51.050 B., and

WHEREAS, when the 2000 amendments to Section 19.51.050 were published by the City of Whitewater's Municipal Codebook publishing company, the company, in error, showed that Section 19.51.050 B. had been repealed, and

WHEREAS, it is necessary to pass this resolution to correct the error and affirm that Whitewater Municipal Code Section 19.51.050 B. is still in full force and effect and has been since 1982.

Now, therefore, **BE IT RESOLVED,** that the Common Council of the City of Whitewater hereby affirms that Whitewater Municipal Code Section 19.51.050 B. is in full force and effect and has been in full force and effect since 1982. Said Section reads as follows:

19.51.050 B. Location shall be on the same lot as the principal use or not over six hundred feet from the principal use. Such parking areas shall be in the same ownership as the principal use or leased on a long-term basis (more than five years).

Now, therefore, **BE IT FURTHER RESOLVED**, that the City of Whitewater's Municipal Codebook publishing company is hereby directed to publish 19.51.050 B. as a part of the City of Whitewater's Municipal Code.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Binnie, Singer, Crone, Kidd. NOES: None. ABSENT: None. ADOPTED: April 4, 2013

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SERVICES FOR RESTROOM AND CONCESSION STAND FOR STARIN PARK. Parks and Recreation Director Matt Amundson stated the 2nd proposal for this

project is in the packet which is \$9,000 less than the original proposal. This project is not to exceed \$16,000. Olsen moved and Winship seconded a motion to approve the contract with Design Alliance of Fort Atkinson, WI for Engineering and Design Services for restroom and concession stand to be in Starin Park. AYES: Abbott, Olsen, Singer, Crone, Kidd, Binnie, Winship. NOES: None. ABSENT: None.

AGREEMENT WITH TOWN OF KOSHKONONG REGARDING WASTEWATER TREATMENT PLANT APPLICATION TO TOWNSHIP PROPERTY. It was moved by Olsen and seconded by Winship to approve agreement with Town of Koshkonong regarding Wastewater Treatment Plant application to township property. AYES: Abbott, Winship, Binnie, Singer, Crone, Kidd, Olsen. NOES: None. ABSENT: None.

APPROVAL OF PURCHASING AGREEMENT WITH LAWSON COOPERATIVE PURCHASING AGREEMENT. It was moved by Olsen and seconded by Winship to approve purchase agreement with Lawson Cooperative purchasing agreement. AYES: Abbott, Winship, Binnie, Singer, Crone, Kidd, Olsen. NOES: None. ABSENT: None.

WASTEWATER TREATMENT PLANT FACILITY UPDATE. Wastewater Treatment Plant Superintendent, Tim Reel, reviewed portions of the 2010 draft Wastewater Utility Facility Plan and identified areas where updates to the plan would create significant savings to the city. Of importance; 1) WPDES (Wisconsin Pollution Discharge Elimination System) Permit Renewal; 2) Phosphorus Standards; 3) Bio Gas Utilization; 4) Biologic process update and; 5) Timeline – Facility Plan. Reel suggested that considering the Strategic Planning process is coming up, this would be a great time to discuss these updates. Reel pointed out that these buildings are 35 years old. Some work needs to be done for any updates and the cost would be around \$5,000,000 to \$7,000,000.

AGREEMENT WITH DLK ENTERPRISES, INC. FOR THE INSTALLATION AND USE OF CONDUIT ON NORTH PRINCE ST. City Manager Clapper drafted in December, an agreement for installation and use of conduit between the City of Whitewater and DLK Enterprises, Inc. An agreement was already made between the former City Manager Kevin Brunner and the former Public Works Director Dean Fischer but it was never brought before Council for approval. The conduit is already in place from the recent reconstruction of N. Prince St. DLK is ready to install the fiber optic cabling in the conduit. DLK has paid for all the funds so far and has worked with the city in good faith. The fiber across Main St. is city space and the space in the tube is a right-City Attorney McDonell spoke to retired DPW Director Dean Fischer and of-way. Fischer suggested that DLK be allowed to use the city conduit. A policy is necessary for further development. Olsen moved and Winship seconded a motion to approve the agreement with DLK Enterprises, Inc. for the installation and use of conduit on North AYES: Olsen, Winship, Binnie, Singer, Crone, Kidd. NOES: None. ABSTAIN; Abbott. ABSENT: None.

AGREEMENT WITH DLK ENTERPRISES, INC. FOR NON-EXCLUSIVE RIGHT TO USE CITY-OWNED CONDUIT AT THE INTERSECTION OF MAIN STREET AND PRINCE STREET. City Attorney McDonell stated that Mike Kachel of DLK Enterprises, Inc. contacted him to clarify a few points with this agreement. Kachel questioned if they would have access to the handholds (access point of

maintenance to the fiber), the area where the fiber is blown through and if they would have the ability to not just install their fiber but to maintain it, too. Since the last draft, Kachel wanted to include the other handhold which is located in the northeast corner. An updated version was distributed by City Manager Clapper. McDonell stated the highlighted areas are the updates.

Councilmember Crone had concerns allowing different people to use the conduit. DLK wishes to install fiber in the city owned conduit. Crone believes it puts the city in better legal ground if the city actually owned the conduit and the fiber and licensed its use out. One suggestion would be for the city to go ahead with the plans and install the conduit and fiber, write up a policy and do a public notice that the city has licenses available to use with the conduit and fiber. Crone would rather have the City own the cable versus someone else. Crone wants it to be clear as to who really owns the right to that space. Another thought was the city could pay the fee and have a permanent application to lease the fiber. When it becomes outdated, include the cost of updating the cable for future license agreements. He feels it would keep it cleaner as far as maintaining it and available for others.

McDonell explained the city is dealing with WIN on a whole different program of laying fiber and allowing the city use. The city has its own agreement as it relates to Prince St. and Main St. intersection. Many businesses lay cable in the city's right-of-ways. The city does not own it. This situation is a private issue for DLK's own use which is what most of the uses are. It would be unusual owning it when a company comes in and does all the work of installing it. This agreement would be a start to what can come in the future. The city is working with the school district and WIN for its own fiber. The goal is to have a larger fiber system which would allow us to connect with city hall, the library, etc.

Crone stated that the city has a private entity that's going to permanently own space across a road that they will always be able to use. Maybe they can own the fiber but the space and conduit should be on some duration of lease that's not necessarily permanent.

McDonell stated it is revocable at any time by the city. There's a provision in there that for any reason at any time, the city can require for it to be removed.

Crone stated if for some reason the conduit were to get damaged and the city allows the customer to move it somewhere else that can be a huge expense to relocate it and it doesn't specify who would pay for that.

McDonell stated the agreement is drafted so that the customer would have to replace at their own expense. McDonell stated if the council wasn't comfortable, paragraph 3 could be removed.

Councilmember Winship suggested that the council should approve both C-5 and C-6. Winship agrees to have the staff look to see what other communities have done. We do

not know enough to decide on a policy tonight. Winship also stated fiber might not be around in 15 years.

Singer commented that an example of Lake Mill's agreement was sent out to council. The DLK Enterprises, Inc. situation was already agreed upon by Kevin Brunner and Dean Fischer. We need to set up a standard if we do get other requests. City Staff could draft up something and bring it back to debate.

Clapper stated for the record, the Lake Mills example was sent out to council members but will be available for public record.

McDonell stated when the city redid Main St. and Whiton St., the city needed easements from private citizens and they were extremely cooperative.

Crone moved to amend removing the last sentence of paragraph three. Motion failed for lack of second.

Nobling stated an actual fiber count would be good to add to the agreement. As GIS maps out, the city can keep track of everything that's in their conduit and we can actually know how much is in there for space purposes.

Kachel stated the fiber in the conduit is currently 72 pair (144 strands of fiber).

Olsen moved and Winship seconded to approve an agreement with DLK Enterprises Inc. for non-exclusive right to use city-owned conduit at the intersection of Main Street and Prince Street with the northeast handhold to be added and adding the fiber count of 72 pair count. AYES: Singer, Crone, Winship, Binnie, Olsen, Kidd. NOES: None. ABSTAIN: Abbott.

REPORT ON UPCOMING FLOOD PLAIN MAPPING SESSIONS. City Manager Clapper stated the city flood maps were adjusted with the FEMA (Federal Emergency Management) Maps. This is information for the public, and if they have any concerns, they can contact the city.

Neighborhood Services Manager/City Planner Latisha Birkeland commented the staff did review the new maps but they were not for distribution at that time so this is their open house. City staff was available at the Jefferson County meeting at their open house and they will be available prior to the open house. The open house will be at the Whitewater Town hall, April 9th at 6 p.m.

Clapper stated this information will be available on the city website.

Binnie added the biggest changes were along the Whitewater Creek, by the lakes, George and Fremont Streets. Most home owner policies do not cover floods.

FUTURE AGENDA ITEMS. Crone would like a report on the train schedule.

<u>ADJOURNMENT.</u> It was moved by Olsen and seconded by Crone to adjourn the meeting. AYES: Crone, Abbott, Kidd, Singer, Winship, Olsen, Binnie. NOES: None. Meeting was adjourned at 7:50 p.m.

Respectfully submitted,

Debbie Hilgen, Administrative Assistant